

REMARKS

Claims 4, 26-34, and 39-46 are pending in the present case. The Examiner has required a restriction under 35 U.S.C. § 121 to one of the following groups:

Group I: claims 4 and 26-34, drawn to a method of preparing a blood sample;

Group II: claims 39-46, drawn to methods of preparing a fresh human whole blood sample.

RESTRICTION REQUIREMENT

The Examiner has described the Group I claims as being classified as class 435, subclass 40.5, while classifying the Group II claims as class 435, subclass 173.7. It is noted that the parent application, now U.S. Patent 6,794,152 has claims directed to compositions for flow cytometric analysis of a sample of fresh human blood with the current U.S. class being primarily 435/40.5. Applicants respectfully traverse the present restriction requirement since compositions directed to the Group II claims 39-46 are the analogous method claims to the composition claims of U.S. Patent 6,794,152. Thus, the Group I and II claims are part of the same class, namely 435/40.5. Thus, Applicants believe that the restriction is improper since the pending claims do not have a separate classification status. Additionally, the search for these eighteen claims would not be burdensome, especially since the analogous composition claims to presently pending claims 39-46 have already been searched in U.S. Patent 6,794,152.

In the absence of reconsideration of the restriction requirement, Applicants elect Group II claims 39-46.

Applicants believe that the presently pending claims are in condition for allowance, and respectfully request that they be allowed. The Examiner is encouraged to call the undersigned should any further action be required for allowance.

It is believed that no fees are presently due. Should any fees be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from Deposit Account No. 01-2508/12642.0046.DVUS01.

Respectfully submitted,



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Date: October 20, 2004